

**MEETING MINUTES
SAN JUAN COUNTY (SJC), WASHINGTON
COUNTY COUNCIL
MONDAY, NOVEMBER 5, 2012**

Legislative Hearing Room, Legislative Building, Friday Harbor

08:45 AM CALL TO ORDER

Council Chair Patty Miller called the meeting to order at 8:45 AM. Council Members present: Howard (Howie) Rosenfeld, Rich Peterson, Patty Miller, Richard Fralick, Lovel Pratt and Jamie Stephens; County Administrator Pro Tem Bob Jean, Clerk to the Council Ingrid Gabriel and interested members of the public were present.

08:52 AM PUBLIC HEARINGS:

1. To Adopt an Ordinance Regarding the Critical Area Regulations for Fish and Wildlife Habitat Conservation Areas, Amending San Juan County Code Sections 18.10.040, 18.20, and 18.30.160 [continued from October 30 – Council deliberations] – Shireene Hale, Planning Coordinator; Jon Cain, Deputy Prosecuting Attorney
Present: Full Council; County Administrator Pro Tem Bob Jean, Deputy Prosecuting Attorney Jon Cain, Planner IV Colin Maycock, Council Clerk Ingrid Gabriel and interested members of the public.

Ms. Miller opened the Public Hearing to adopt an Ordinance Regarding the Critical Area Regulations for Fish and Wildlife Habitat Conservation Areas.

Ms. Hale updated the Council on revisions and answered Council's questions. After discussion, the Council took the following actions:

- a. **Moved by Ms. Miller, seconded by Mr. Peterson to direct staff to add a sentence in either the applicability section in 18.30.160, or to the top of Table 3.12, or in section "C" on page 16 that provides direction for property owners on how to determine if the section applies. ALL AYES; MOTION CARRIED**
- b. **Moved by Ms. Miller, seconded by Mr. Stephens to direct staff to add the words "as identified in this section" at the end of letter B-1 on page 13. ALL AYES; MOTION CARRIED.**
- c. **Moved by Ms. Pratt, seconded by Mr. Fralick to direct staff to insert on page 20 under Adjustments on figure 3.2 the words "legally established" after "existing." ALL AYES; MOTION CARRIED.**
- d. **Moved by Ms. Miller, seconded by Ms. Pratt to direct staff to replace the word "width" with "size" on page 20 and do it wherever appropriate in the draft. ALL AYES; MOTION CARRIED.**
- e. **Moved by Mr. Fralick, seconded by Ms. Pratt to direct staff to modify Adjustments on page 20 to read "existing legally established structures and impervious areas shall not be labeled non-conforming and are excluded from buffers and tree**

**protection zones because they provide limited habitat value.” ALL AYES;
MOTION CARRIED**

- f. Moved by Ms. Miller, seconded by Mr. Fralick to direct staff to replace step 4 with language on page 21 to read “For areas with trees, including individual trees, identify Tree Protection Zones (TPZ). Use Table 3.9 to determine the landward extent of the area to be evaluated for a TPZ requirement. If any trees are present in these evaluation areas, then they must be protected with a TPZ. The TPZ extends horizontally from the landward edge of the drip line of the tree to the bank full width of streams and the Ordinary High Water Mark for lakes, ponds and marine shorelines. For individual trees, the TPZ must be at least as wide as the drip line of the tree being protected. ALL AYES; MOTION CARRIED.**
- g. Moved by Ms. Miller, seconded by Mr. Peterson to direct staff to modify the title of Table 3.9 to “Tree Protection Zone Evaluation Area” and clarify “from ordinary high water mark or bank full width” for the first line and “bank full width” for the second and third line.” ALL AYES; MOTION CARRIED.**

The Council agreed by consensus to ask staff to consider where appropriate to identify language that clarifies the purpose of tree-protection zones.

- h. Moved by Ms. Miller, seconded by Ms. Pratt to direct staff to modify beginning of letter C under Step 5 to read “Only trees located in areas within 200’ of the Ordinary High Water Mark...” ALL AYES; MOTION CARRIED.**
- i. Moved by Ms. Pratt, seconded by Mr. Stephens to direct staff on page 22 Step 6.a Adjustments to replace the word “development” with “existing legally established structures or impervious surfaces within buffers and tree protection zones remain conforming” and change wherever else appropriate. VOTE 4:1:1 (Peterson opposed, Miller abstained); MOTION CARRIED.**
- j. Moved by Ms. Pratt, seconded by Mr. Rosenfeld to direct staff to modify on page 24, vii and replace the word “buffer” with “tree protection zone.” ALL AYES; MOTION CARRIED.**
- k. Moved by Ms. Miller, seconded by Mr. Peterson to direct staff to clarify on page 27 #5 that letter “B” applies to Type F fish-bearing streams. VOTE 5:1 (Pratt opposed); MOTION CARRIED**
- l. Moved by Ms. Miller, seconded by Mr. Peterson to direct staff to clarify on page 28 under letter “B” if all of the references are necessary. ALL AYES; MOTION CARRIED.**
- m. Moved by Mr. Peterson, seconded by Mr. Fralick to direct staff change on page 29 #6 the tree protection zone language from “may” to “shall.” ALL AYES; MOTION CARRIED.**

- n. Moved by Ms. Pratt, seconded by Ms. Miller to direct staff to amend 6A on page 29 to read as follows “Adverse impacts to aquatic FWHCAs must be identified by a qualified professional. If adverse impacts are identified, they shall be mitigated in conformance with the code section SJC 18.30.110.” ALL AYES; MOTION CARRIED.**
- o. Moved by Ms. Miller, seconded by Mr. Stephens to direct staff to add on page 29 the words “using appropriate technology or by” after the word “by” on 7.a.i.B.” ALL AYES; MOTION CARRIED.**
- p. Moved by Ms. Pratt, seconded by Mr. Rosenfeld to direct staff to amend the draft section of code to include a list of application requirements for docks. VOTE 3:3 (Fralick, Miller, Peterson opposed); MOTION FAILED.**
- q. Moved by Ms. Miller, seconded by Mr. Peterson to direct staff to add a new section “B” on page 30 of 46 between ii and iii labeled “Standards for Docks.” ALL AYES; MOTION CARRIED.**

12:10 PM LUNCH RECESS

01:11 PM PUBLIC HEARINGS CONTINUED

Ms. Miller continued the public hearing on the Fish and Wildlife Habitat Conservation Area Section:

- r. Moved by Ms. Miller, seconded by Mr. Peterson to direct staff to modify the standards for shoreline stabilization measures to more fully align with WAC 173-26-231 3.A iii Standards and to ask staff to identify additional recommendations from the San Juan Initiative’s work and propose those. VOTE 5:1 (Pratt opposed); MOTION CARRIED.**
- s. Moved by Ms. Pratt, seconded by Mr. Rosenfeld to direct staff to bring back recommended language that addresses sea level rise for the list of application requirements. VOTE 4:2 (Fralick, Peterson opposed); MOTION CARRIED.**
- t. Moved by Ms. Miller, seconded by Mr. Peterson to direct staff to modify the last column on page 41 of 46 to state “recommendations only may be provided by the director until such time as code amendments are developed by the legislative authority.” VOTE 5:1 (Pratt opposed); MOTION CARRIED.**
- u. Moved by Ms. Miller, seconded by Mr. Peterson to direct staff to change from “requirements” to “recommendations” accept where staff thinks that they are truly requirements and change the column heading if appropriate. ALL AYES; MOTION CARRIED.**
- v. Moved by Ms. Miller, seconded by Mr. Peterson to direct staff to modify “recommendations” and “requirements” such that they are achievable by humans. ALL AYES; MOTION CARRIED.**

- w. **Moved by Mr. Fralick, seconded by Mr. Peterson to direct staff to remove the “fish” section from Table 3.12 because it is a circular reference. ALL AYES; MOTION CARRIED.**
- x. **Moved by Ms. Miller, seconded by Mr. Fralick to make the effective date of this ordinance and all other critical area ordinances March 1, 2013. ALL AYES; MOTION CARRIED.**
- y. **Moved by Mr. Fralick, seconded by Mr. Stephens to direct staff to modify page 3, M.II after the word “them” to read “while maximizing the allowable use of property and including Best Available Science as required.” ALL AYES; MOTION CARRIED.**
- z. **Moved by Ms. Pratt, seconded by Ms. Miller to direct staff to revise the findings to support the current draft of the Fish and Wildlife Habitat Conservation Area section. ALL AYES; MOTION CARRIED.**
- aa. **Moved by Mr. Fralick, seconded by Mr. Rosenfeld to continue public hearing on the Fish and Wildlife Habitat Conservation Area Section to Tuesday, November 06, 2012 at 1:30 PM. ALL AYES; MOTION CARRIED.**

04:10 PM

- 2. To Adopt an Ordinance Regarding Critical Area Regulations for Wetlands; Amending San Juan County Code Sections 18.10.040, 18.20.010, 18.20.020, 18.20.040, 18.20.070, 18.20.080, 18.20.090, 18.20.120, 18.20.130, 18.20.140, 18.20.170, 18.20.180, 18.20.190, 18.20.200, 18.20.230, 18.30.150, and 8.60.170; and Repealing Appendices A-C of SJCC 18.30.150 [**continued from October 30 – Council deliberations**] – Shireene Hale, Planning Coordinator; Jon Cain, Deputy Prosecuting Attorney
Present: Full Council; County Administrator Pro Tem Bob Jean, Deputy Prosecuting Attorney Jon Cain, Planner IV Colin Maycock, Council Clerk Ingrid Gabriel and interested members of the public.

Ms. Miller opened the Public Hearing to adopt an Ordinance Regarding Critical Area Regulations for Wetlands.

- a. **Moved by Mr. Peterson, seconded by Ms. Miller to direct staff to modify V on page 3 of 39 to replace the word ”modifies” on line 4 with “increases.” ALL AYES; MOTION CARRIED.**
- b. **Moved by Mr. Fralick, seconded by Mr. Peterson to direct staff to eliminate letter “L” on page 5. ALL AYES; MOTION CARRIED.**
- c. **Moved by Mr. Peterson, seconded by Ms. Miller to direct staff to remove the last sentence on bottom of page 7. VOTE 5:1 (Rosenfeld opposed); MOTION CARRIED.**

- d. Moved by Ms. Miller, seconded by Mr. Peterson to direct staff to remove last 2 sentences in the first paragraph of “A. Applicability” on page 13. VOTE 2:4 (Stephens, Rosenfeld, Pratt, Fralick opposed); MOTION FAILED.
- e. Moved by Mr. Fralick, seconded by Mr. Rosenfeld to direct to staff to replace last two sentences on page 13 paragraph A. Applicability with “Many wetlands are depicted on various adopted maps of San Juan County. These maps, however, serve only as a guide and in all cases conditions in the field shall control.” ALL AYES; MOTION CARRIED.
- f. Moved by Mr. Peterson, seconded by Ms. Pratt ask staff to include a definition of “vested.” ALL AYES; MOTION CARRIED.
- g. Moved by Ms. Pratt, seconded by Mr. Peterson to direct staff to add definitions for “imminently threatened”, “stocking levels” and “primary structure” if needed. ALL AYES; MOTION CARRIED.
- h. Moved by Ms. Miller, seconded by Mr. Peterson to direct staff to modify figure 3.1 on page 19 to include a reference to the Fish and Wildlife Habitat Conservation Areas section related to plants and species as appropriate. ALL AYES/MOTION CARRIED.
- i. Moved by Ms. Pratt, seconded by Mr. Rosenfeld to direct staff to replace in Step 5.i “the building” to “the proposed building” in A, B and C and on page 23 ALL AYES; MOTION CARRIED.
- j. Moved by Mr. Fralick, seconded by Mr. Peterson to direct staff to Include on page 23 “the disposal area for any on-site sewage systems associated with the building must meet current standards and in addition must be installed no closer to the wetland than the water quality edge for normal development.” VOTE 5:1 (Rosenfeld opposed); MOTION CARRIED.
- k. Moved by Ms. Pratt, seconded by Mr. Stephens to direct staff to amend #2 on page 26 to align with the Fish and Wildlife Habitat Conservation Area section. VOTE 1:5 (Fralick, Rosenfeld, Stephens, Peterson, Miller opposed); MOTION FAILED.
- l. Moved by Mr. Fralick, seconded by Ms. Miller to continue public hearing to Tuesday, November 6 at 1:30 PM. ALL AYES; MOTION CARRIED,
- m. Moved by Mr. Fralick, seconded by Ms. Miller to continue public hearing on the Wetlands Section to Tuesday, November 06, 2012 at 1:30 PM. ALL AYES; MOTION CARRIED.

05:18 PM

ADJOURN AND SIGN DOCUMENTATION

**COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON**

These Minutes were approved and signed on November 20, 2012. The original document is retained in the Council's permanent proceedings file. Attest: Ingrid Gabriel, Council Clerk.